

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

WILLIAM H. BAKER,)	CASE NO.: 3:20CV2334
)	
Petitioner,)	JUDGE JOHN ADAMS
)	
)	
)	
WARDEN JAMES HAVILAND,)	<u>MEMORANDUM OF OPINION</u>
)	<u>AND ORDER</u>
Defendant.)	
)	

This matter appears before the Court on objections to the Report and Recommendation (“R&R”) of the Magistrate Judge (Doc. 16) filed by William Baker. Upon due consideration, the Court overrules the objections and adopts the Report and recommended findings and conclusions of the Magistrate Judge and incorporates them herein. Therefore, it is ordered that the petition is hereby DISMISSED.

Where objections are made to a magistrate judge’s R&R this Court must:

must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

Fed. R. Civ. P. 72(b)(3).

Baker’s sole objection focuses upon his belief that the R&R erred in its conclusion that his petition was time barred. Specifically, Baker contends that he diligently pursued his rights and therefore any lateness in his filing should be excused. The R&R, however, noted that even if it

credited Baker's actions as diligent and tolled certain periods of time claimed by Baker, the petition would remain untimely. Doc. 16 at 10-11. Baker has not contested this calculation, and this Court finds no error in the calculation. As the R&R properly concluded, even crediting *all* of Baker's arguments for tolling, his petition is untimely. Accordingly, his objections are overruled. As such, the R&R is adopted in full and this matter is hereby DISMISSED.

The Court certifies, pursuant to 28 U.S.C. §1915(A)(3), that an appeal from this decision could not be taken in good faith, and that there is no basis upon which to issue a certificate of appealability.

This Order is entered pursuant to Federal Rule of Civil Procedure 58.

IT IS SO ORDERED.

Date: March 1, 2023

/s/ John R. Adams

JUDGE JOHN R. ADAMS
UNITED STATES DISTRICT JUDGE